

§ 407.4 OMB control numbers.

The information collection activity associated with this rule has been previously approved by the Office of Management and Budget (OMB) under control number 0563–0053.

§ 407.5 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 407.6 Good faith reliance on misrepresentation.

(a) Notwithstanding any other provision of the crop insurance contract, an insured shall be granted relief to the extent of the insured's detrimental reliance or the extent of the policy benefits, whichever is less, under the following conditions:

(1) The person has entered into a contract of crop insurance under this part;

(2) A representative of FCIC made a misrepresentation or other erroneous action or advice;

(3) Such error concerned provisions of the insurance contract not contained in the Group Risk Plan of Insurance Basic Provisions, the Crop Provisions, the Federal Crop Insurance Act, or the regulations contained in this chapter;

(4) As a result of the error, the insured:

(i) Is indebted for additional premiums; or

(ii) Has suffered a loss to a crop which is not insured or for which the person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived; and

(5) The Manager finds that:

(i) A representative of FCIC made such misrepresentation or took other erroneous action or gave erroneous advice;

(ii) The person reasonably and in good faith relied on such misrepresentation, erroneous action or advice to the person's detriment; and

(iii) To require the payment of the additional premiums or to deny such person's entitlement to the indemnity would not be fair and equitable.

(b) For FCIC Policies only, requests for relief under this section must be submitted to FCIC in writing. FCIC's reviewing officers must refer such application for relief to the Manager of FCIC for determination as to whether to grant relief. FCIC's reviewing officers do not have authority to grant relief under this section.

(c) For Reinsured Policies only, requests for relief under this section must be submitted to the reinsured company in writing. The reinsured companies shall use arbitration, in accordance with the rules of the American Arbitration Association, under contracts for insurance issued by them under the Act to grant relief under the same terms and conditions as contained in this section or may establish procedures to administratively handle relief in accordance with this section. Granting relief under this section does not absolve the reinsured company from liability to FCIC for unauthorized acts of its agents.

§ 407.7 The contract.

The insurance contract shall become effective upon the acceptance by FCIC or the reinsured company of a complete, duly executed application for insurance on a form prescribed or approved by FCIC. The contract shall consist of the accepted application, Group Risk Plan of Insurance Basic Provisions, Crop Provisions, Special Provisions, Actuarial Table, and any amendments, endorsements, or options thereto. Changes made in the contract shall not affect its continuity from year to year. Except as may be allowed under § 407.6, and at the sole discretion of the Corporation, no indemnity shall be paid unless the person complies with all terms and conditions of the contract. The forms required under this part and by the contract are available at the office of the insurance provider, or the local FSA office, if applicable.

§ 407.8 The application and policy.

(a) Application for insurance, on a form prescribed or approved by FCIC,

must be made by any person who wishes to participate in the program in order to cover such person's share in the insured crop as landlord, owner-operator, tenant, or other crop ownership interest. No other person's interest in the crop may be insured under the application. The application must be submitted to the insurance provider on or before the applicable sales closing date on file in the insurance provider's local office.

(b) FCIC or the reinsured company may reject or no longer accept applications upon the FCIC's determination that the insurance risk is excessive. The Manager of the Corporation is authorized in any crop year to extend the sales closing date for submitting applications for fall planted crops, unless prohibited by law, upon determining that the probability and severity of claims will not increase because of the extension, by placing the extended date on file in the insurance provider's office and publishing a notice in the FEDERAL REGISTER. If adverse conditions should develop during the extended period, the Corporation will require the insurance provider to immediately discontinue acceptance of applications.

(c) Since this Group Risk Plan differs significantly from traditional Multiple Peril Crop Insurance, persons who purchase the Group Risk Plan and their crop insurance agents will be required to execute an "Acknowledgment of Differences" that explains that the terms and conditions of the Group Risk Plan are different from traditional crop insurance in that:

(1) The Group Risk Plan indemnity payment, if any, will be made after the Group Risk Plan premium is received;

(2) A person may have a low yield on his or her individual farm and not receive a payment under Group Risk Plan; and

(3) A person may not have any loss of production and still collect under the policy if a loss of production is general in the area.

(4) By executing the "Acknowledgment of Differences," the insured certifies that:

(i) He or she understands the terms of the Group Risk Plan;

(ii) An MPCP policy may be available in the county; and

(iii) Both a Group Risk Plan and a MPCP Plan cannot be purchased on the same crop by the same insured in the same county.

§407.9 Group risk plan common policy.

The provisions of the Group Risk Plan Common Policy for the 2004 and succeeding crop years are as follows:

[FCIC policies]

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Group Risk Plan Common Policy

[Reinsured policies]

(Appropriate title for insurance provider)
(This is a continuous policy. Refer to Section 18.)

[FCIC policies]

This insurance policy establishes a risk management program developed by the Federal Crop Insurance Corporation (FCIC), an agency of the United States Government, under the authority of the Federal Crop Insurance Act (Act), as amended (7 U.S.C. 1501 *et seq.*). All terms of the policy and rights and responsibilities of the parties hereto are subject to the Act and all regulations under the Act published in 7 CFR chapter IV. The provisions of this policy may not be waived or varied in any way by the crop insurance representative, or any other representative or employee of FCIC, the Risk Management Agency (RMA) or the Farm Service Agency (FSA). In the event that the company cannot pay a loss, the claim will be settled in accordance with the provisions of the policy and paid by FCIC. No state guarantee fund will be liable to pay the loss.

Throughout this policy, "you" and "your" refer to the person shown on the accepted application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation. Unless the context indicates otherwise, the use of the plural form of a word includes the singular use and the singular form of the word includes the plural.

[Reinsured policies]

This insurance policy establishes a risk management program created by the Federal Crop Insurance Corporation (FCIC), an agency of the United States Government, under the authority of the Federal Crop Insurance Act (Act), as amended (7 U. S. C. 1501 *et seq.*).

This insurance policy is reinsured by FCIC under the provisions of the Act. All terms of the policy and rights and responsibilities of the parties are subject to the Act and all regulations under the Act published in 7 CFR chapter IV, and may not be waived or varied in any way by the crop insurance representative, any other representative or employee of